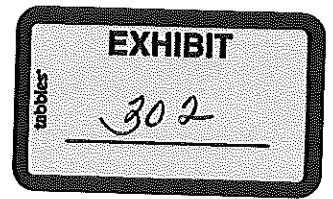




City of Middletown

WATER & SEWER DEPARTMENT

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BUREAU OF WATER PROTECTION AND LAND REUSE
OFFICE OF THE BUREAU CHIEF

FEB 04 2010

February 4, 2010

Mr. Paul Stacey
Bureau of Water Protection and Land Use
State of Department of Environmental Protection
79 Elm Street
Hartford, CT 06106

Re: Stream Flow Regulations

Dear Mr. Stacey:

First, let me thank you for all of the time that you have put in as the hearing officer on the proposed Stream Flow Regulations. In all of my time in public service, I do not believe I have seen a proposed set of regulations, or legislation that, has created the depth and breadth, across constituencies, of comments that the Stream Flow Regulations have generated. Please accept my sincere best wishes as you move forward as the hearing examiner.

As in my direct testimony on January 21, 2010, I wanted to formally highlight in writing some of my concerns on behalf of the City of Middletown, and other municipalities. As I forward you this testimony, I am just completing this year's annual budget for the Middletown Water and Sewer Departments. I can say with severity that, this year's budget, and this year's economic time, has been one of the most difficult to construct in my fifteen-years as the Chief Administrator here at the Water and Sewer Department. In conversations with my cohorts in the municipal ranks of other water utilities, I understand that I am not alone, given the current economic down turn, and the challenges posed to us by the demands of our customers. Having said that, I wanted to highlight what I believe is a deficiency in the regulations as proposed. Primarily, I am most concerned over the economic impact, and the economic equity issues.

First, a disproportionate cost for the compliance with these regulations will fall to water customers. I recognized that in the past, the DEP has utilized the concept of the "Polluter Pays", or the internalization of externalities, as a way of including environmental costs into the cost of the product. Unfortunately, I believe that this

Mr. Paul Stacey
Bureau of Water Protection and Land Use
State of Department of Environmental Protection
February 4, 2010
Page 2

concept is misapplied in this circumstance, and that the water industry are not polluters, but rather public health and safety providers, many for well over a century. For over a hundred years, many of us have been encouraged, and have been created by special acts of the General Assembly, to create and maintain upland water supply systems for the purposes of the protection of public health, and for the provision of public safety, as the State grew, and as our cities and towns and economic centers developed; all of which gives Connecticut the rich fabric which we now enjoy. So I first take exemption to the use of this economic principal in the application of Stream Flow Standards in that the costs disproportionately fall to water customers.

Second, along the same lines, if the regulations move forward in the manner in which it distributes the economic cost of compliance, a disproportionate cost, or inequity, falls to the most populated areas of our State; cities and towns. It is no surprise to elected officials and municipal staff, in cities and towns, that we deal with the disproportionate share of the State's problems, particularly social problems, housing problems, and educational problems. In general, the average income of our residents, in these populated areas, is lower than more affluent areas in the suburbs of the State. Cities and towns in these populated regions have always utilized resources to serve our residents, and do so proudly and with compassion. To apply the concept that the majority of these costs will be borne by water customers puts a disproportionate burden on cities and towns, and on its citizens who are at the lower ends of the ability to pay, thereby, exacerbating the problem and diverting funds for these other problems that cities and towns face.

Third, there needs to be a method, if these regulations go forward in any manner, that more equitably spreads the costs. The Italian Philosopher, Cicero, would always ask "Che bono?" Who benefits? When this question is applied to the Stream Flow Regulations, it is clear that all citizens of the State of Connecticut are the beneficiaries of this type of environmental benefit. Good policy dictates that a more equal and fair sharing of costs be made, across the State, to comply with the regulations.

Having identified the matter of cost sharing, I would like to highlight the matter of costs justification. As a member of the water industry, we have spent countless hours identifying in our best terms, without the benefit of a final stream classification, what we believe to be the cost of compliance with these regulations would be. As I, and many in my industry, have testified, the numbers for initial costs, not including yearly costs, for compliance with the Stream Flow Regulations, is easily into the hundreds of millions of dollars. At this juncture, there has been no meaningful assessment as to the benefit that will be derived from putting more waters in streams. I will grant intuitively this seems

Mr. Paul Stacey
Bureau of Water Protection and Land Use
State of Department of Environmental Protection
February 4, 2010
Page 3

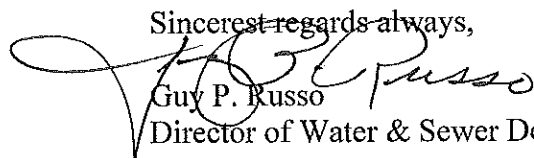
like a good and noble idea, but it must pass some test of "cost to benefit" to assure that the public's dollars are being spent wisely, as I am always required to do at the municipal level.

When assessing benefit and cost, a first reasonable approach would likely be to develop a plan that would target the less than 1% percent of flow impaired streams that have been identified in the State. Clearly, dollars spent to improve these waterways should easily be demonstrated to be cost beneficial and, following my prior comments with looking to place the cost with those who benefit, would be a reasonable approach for the State DEP to solve its most immediate problems.

I would like to comment on what I see solutions that can be sought to further engage the conversation on Stream Flow with an eye toward a remedy amongst all the stakeholders. I would first call for a reinstatement of the parties into stakeholder groups for the purposes of developing key strategies for the attainment of goals. I would suggest in the strongest of terms that the stakeholders themselves be given broad latitude to scope all of the issues which need to be reconciled within their particular area of investigation. I would further suggest that a separate stakeholder group be tasked with the development of an economic plan that fairly distributes the cost of compliance to all beneficiaries, and in fact develop concrete recommendations for consideration by the legislature to achieve this goal.

Finally, I would implore the DEP to complete the basin classification prior to the firm adoption of strategies to meet the goals.

On behalf of the City of Middletown, and the other municipal water utilities that I have spoke with, we remain prepared to assist in stakeholder work groups, should the DEP reconstitute them, and we are prepared to work cooperatively with the regulatory bodies, the water resource advocacy groups, and other users to "truly strike a balance", and bring forward regulations that we all can be proud of, and we can all live with well beyond our tenures as stewards of the environment.

Sincerest regards always,

Guy P. Russo
Director of Water & Sewer Department

cc: WPCA